

EXHIBIT B

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

Ector County - 358th District Court

Ector County, Texas

11/4/2021 6:34 PM

Clarissa Webster

District Clerk

By: Karima Carrasco, Deputy

NO. D-21-11-1258-CV

KINDRELL M. SANDERS § IN THE _____ DISTRICT COURT

v. §

DOLLAR TREE STORES, INC., § OF

DOLLAR TREE, INC., and §

CHALEK COMPANY, LLC, § ECTOR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Plaintiff KINDRELL M. SANDERS complaining of Defendants DOLLAR TREE STORES, INC., DOLLAR TREE, INC. and CHALEK COMPANY, LLC. and for cause of action would show the Court as follows:

I. DISCOVERY

1.1 This cause of action involves only monetary relief over \$1,000,000.00. Discovery in this case is to be conducted under Texas Rules of Civil Procedure 190.3, Discovery Control Plan, Level 3.

II. PARTIES

2.1 Plaintiff KINDRELL M. SANDERS (SSN 599) is an individual residing at 1210 E. 56TH Street, Odessa, Texas 79762.

2.2 Defendant DOLLAR TREE STORES, INC. is a foreign for-profit corporation. Defendant may be served with process by serving its registered agent for service of process in Texas, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

2.3 Defendant DOLLAR TREE, INC., is a foreign for-profit corporation located at 500 Volvo Parkway, Chesapeake, Virginia 23320. Defendant may be served with process by serving the Texas Secretary of State at 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant is required to register with the Secretary of State but has not appointed or maintained a registered agent for service of process in Texas.

2.4 Defendant CHALEK COMPANY, LLC is a foreign for-profit corporation. Defendant may be served with process by serving its registered agent for service of process in Texas, Lawyer's Aid Service, Inc. 505 West 15th Street, Austin, Texas 78701.

2.5 The above referenced Defendants, DOLLAR TREE INC, DOLLAR TREE STORES, INC, and CHALEK COMPANY shall be also referred to as "DOLLAR TREE Defnednats."

2.6 In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer," and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice Plaintiff's contention is that they bring this cause of action against all Defendants for the November 4, 2019, incident making the basis of this suit, should they be misnamed or misidentified Plaintiff requests that the true name of such party be substituted.

2.7 Pursuant to Texas Rule of Civil Procedure 28, Plaintiff brings this action against Defendants in their assumed and/or common name(s). In the event that any proper party is misnamed in or omitted from this petition, Plaintiff requests that the true name of such party be substituted pursuant to Rule 28 and the misnomer doctrine. Tex. R. Civ. P. 28; *see also Chilkewitz*

v. Hyson, 22 S.W.3d 825, 830 (Tex. 1999); *Enserch Corp. v. Parker*, 794 S.W.2d 2, 4-5 (Tex. 1990); *Sheldon v. Emergency Med. Consultants I, P.A.*, 43 S.W. 3d 701, 703 (Tex. App.—Ft. Worth 2001, *no pet.*).

2.8 To the extent that Defendant is or may be conducting business pursuant to a trade name or assumed name, then suit is brought against Defendant pursuant to the terms of Rule 28 of the Tex. R. Civ. P., and Plaintiff hereby demands upon answer to this suit, that Defendant answer in its correct legal and assumed names.

2.9 Plaintiff hereby invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of “Dollar Tree Stores” with regard to the events described in this petition.

III. VENUE & JURISDICTION

3.1 The occurrence giving rise to this cause of action occurred in Ector County, Texas.

3.2 Personal jurisdiction exists in Texas because Defendants purposely availed itself of the privileges and benefits of conducting business in Texas by committing a tort, which is the subject of this suit, in whole or in part, in Texas, Tex. Civ. Pract. & Rem. Code Secs. 17.042(s) and 17.061-17.069.

IV. FACTS

4.1 On or about November 4, 2019, Plaintiff, KINDRELL M. SANDERS was injured at the Dollar Tree Store located at 5171 E. 42nd Street, Odessa, Texas. At the time of the injury, the premises in question was a Dollar Tree Store owned and/or operated by Defendants.

4.2 Defendants collectively were in control of the premises on which Plaintiff's injuries and damages occurred. Defendants were either the owner or lessor of the premises and had the right to control the property on which Plaintiff KINDRELL M. SANDERS was injured and to direct the actions of its agent(s), servant(s), and/or employee(s) located therein at the time of the accident that forms the basis of this suit. In the alternative, Defendants either collectively or individually, were the owners or lessors of the premises and had the right to control the property on which Plaintiff KINDRELL M. SANDERS was injured and to direct the actions of its agent(s), servant(s), and/or employee(s) located therein at the time of the accident that forms the basis of this suit.

4.3 Plaintiff KINDRELL M. SANDERS was an invitee at the time the injury occurred. Plaintiff went on Defendants' premises for the mutual benefit of themselves and Defendants, and at the implied invitation of the Defendants. Plaintiff was business invitees of Defendants because on or about November 4, 2019, Plaintiff KINDRELL M. SANDERS came upon Defendants' business to purchase goods. Defendants extended an open invitation to the public, including the Plaintiff.

4.4 Because Plaintiff KINDRELL M. SANDERS, was an invitee at the time of injury, Defendants owed her a duty to exercise ordinary care to keep the premises in reasonably safe condition, inspect the premises to discover latent defects, to make safe any defects or give an adequate warning of any dangers, and to take whatever measures are reasonably prudent to reduce the unreasonable risk of harm due to conditions of which the Defendants has actual or constructive knowledge.

4.5 Additionally, Defendants, by and through its agent(s), servant(s), and/or employee(s) owed Plaintiffs a duty to exercise ordinary care in the operation and maintenance of the Premises and in the hiring and supervision of its employees and in the conduct of its agent(s), servant(s), and/or employee(s) during the course and scope of their employment.

4.6 On or about November 4, 2019, Plaintiff KINDRELL M. SANDERS, entered the Dollar Tree Store located at 5171 E. 42nd Street in Odessa, Texas. As Ms. Sanders entered the store she tripped over a pallet of water that was placed directly in the walking area of the store, when she tripped she suffered a fall to the floor. The fall caused her to suffer severe injuries.

4.7 As a result thereof, Plaintiff was caused to suffer serious bodily injuries and damages described with more particularity below.

V. CAUSES OF ACTION AGAINST DEFENDANTS

Negligence & Negligence per se

5.1 Plaintiff KINDRELL M. SANDERS incorporates by reference the statements made in the above paragraphs as if fully set out herein.

5.2 There is no question that Plaintiff KINDRELL M. SANDERS is an innocent victim in this case. At the time of the fall, Ms. Sanders was an invitee of Defendants. The Premises was open to the public, Defendants extended an invitation to Ms. Sanders to shop for the mutual benefit of both parties. Consequently, Defendants, by and through its employees/agents owed Ms. Sanders the duty to inspect the premises and maintain them in a reasonably safe manner.

5.3 The Defendants were the owner and/or operator of the premises at the time of the fall, therefore, they controlled the premises where the fall and subsequent injury occurred.

5.4 The standing object left on the floor of the premises posed an unreasonable risk of harm because individuals walking through the premises may slip and fall in the substance through no fault of their own and severely injury themselves.

5.5 On November 4, 2019, Defendants by and through their agents, servant and employees, owed the Plaintiff a duty to exercise reasonable care in,

- a. creating a reasonably safe environment;
- b. establishing rules for the employee's how to maintain and inspect the premises and maintain them in a reasonably safe manner;
- c. warning customers of hazards within the premises;
- d. preventing an employee from causing an unreasonable risk of harm to others;
- e. supervising employees' activities;
- f. in using reasonable/ordinary care in the training and supervision of employees;
- g. in providing adequate medical attention for an injured invitee;

5.6 The dangerous condition existed long enough at the premises that an employee should have discovered it upon reasonable inspection.

5.7 Defendants, acting through their agents, servants and employees, breached these duties in violation of various civil and/or criminal statutes of the State of Texas, and did operate, oversee and maintain its workplace in a negligent and careless manner and train and supervised its employees in a negligent and careless manner, thus proximately causing and brining about the incident involving Plaintiff. Specifically, Defendants acting through their agents, servants and employees, breached their duty to:

- a. create a reasonably safe environment;

- b. establish rules for the employee's how to maintain and inspect the premises and maintain them in a reasonably safe manner;
- c. warn customers of hazards within the premises;
- d. prevent an employee from causing an unreasonable risk of harm to others;
- e. supervise employees' activities;
- f. failing to using reasonable/ordinary care in the training and supervision of employees;
- g. failing to provide adequate medical attention for an injured invitee;

5.8 Each of these acts and omissions, singularly or in combination with others, were negligent and one or more of these acts constituted negligence *per se* and such negligence was a proximate cause of the accident made the basis of this lawsuit and of the injuries and damages suffered by the Plaintiff.

Gross Negligence

5.9 The wrong done by Defendants was aggravated by the kind of conduct for which the law allows the imposition of exemplary damages, in that Defendants' conduct, when viewed objectively from his standpoint at the time of the conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and Defendants were actually, subjectively aware of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others. Plaintiff, therefore, seeks exemplary damages in an amount within the jurisdictional limits of the court.

5.10 The grossly negligent acts and/or omissions of the Defendants were a proximate and/or producing cause of this incident.

Respondeat Superior

5.11 Plaintiff pleads the doctrine of respondeat superior as to the acts and omissions of the agents, servants and employees of Defendants acting in the course and scope of their employment on the date of the incident made the basis of this suit.

Premises Liability

5.12 On or about November 4, 2019, Plaintiff was injured on the premises located at 5171 E. 42nd Street, Odessa, Texas. At the time of the injury, the premises in question a facility owned and/or operated by the Defendants, and professionally maintained by the Defendants.

5.13 Defendants were in control of the premises on which Plaintiff's injuries occurred. Defendants were either the owner or lessor of the premises and had the right to control the property on which Plaintiff was injured and to direct the actions of its agents, servants, and/or employees located therein at the time of the incident that forms the basis of this suit.

5.14 Plaintiff was an invitee at the time the injury occurred. Plaintiff went on Defendants' premises for the mutual benefit of herself and Defendants, and at the implied invitation of the Defendants. Plaintiff was a business invitee of Defendants because on or about November 4, 2019.

5.15 Because Plaintiff, was an invitee at the time of injury, Defendants owed her a duty to exercise ordinary care to keep the premises in reasonably safe condition, inspect the premises to discover latent defects, to make safe any defects or give an adequate warning of any dangers, and to take whatever measures are reasonably prudent to reduce the unreasonable risk of harm due to conditions of which the Defendants has actual or constructive knowledge.

5.16 Additionally, Defendants, by and through its agent(s), servant(s), and/or employee(s) owed Plaintiffs a duty to exercise ordinary care in the operation and maintenance of the Premises and in the hiring and supervision of its employees and in the conduct of its agent(s), servant(s), and/or employee(s) during the course and scope of their employment.

5.17 Defendants' conduct and that of its agents, servants, and employees cited above, constituted a breach of the duty of care owed by Defendants to Plaintiff. Defendants, by and through its agents, servant and employees, knew or should have known that the condition on its premises created an unreasonable risk of harm to invitees. Defendants by and through its agents, servants and employees, acting within the scope of their employment failed to exercise reasonable care to reduce or eliminate the risk by failing to maintain safe maintenance and warning methods, and by failing to keep the premises in reasonably safe condition, inspect the premises to discover latent defects, to make safe the defect or give an adequate warning of the danger, and to take whatever measures were reasonably prudent to reduce the unreasonable risk of harm to Plaintiff on the occasion in question.

5.18 Defendants' conduct, and that of its agents, servants, and employees, acting within the scope of their agency/employment, constituted a breach of the duty of ordinary care owed by Defendants to Plaintiff. Each of these acts and omissions, singularly or in combination with others, were negligent and one or more of these acts constituted negligence per se and such negligence was a proximate cause of the accident made the basis of this lawsuit and of the injuries and damages suffered by the Plaintiff.

5.19 Each of the above-mentioned acts or omissions constituted negligence which were the proximate cause or causes of the occurrence in question and the resulting damages sustained by the Plaintiff herein.

VI. DAMAGES

6.1 As a direct and proximate result of the aforesaid incident and such negligence, gross negligence and/or *per se* negligent act(s) by Defendants as stated herein, the Plaintiff KINDRELL M. SANDERS has:

- a. sustained and suffered severe personal injuries to her hands, knees, feet, back, neck, shoulders, legs, and her body in general. Plaintiff has incurred medical bills and expenses for which she prays Judgment. These expenses were incurred for reasonable and necessary care and for the treatment of injuries resulting from the incident complained of herein. It is reasonably probable that KINDRELL M. SANDERS will incur additional medical expenses in the future for which she now sues.
- b. suffered great physical and mental pain, suffering and anguish in the past. As a further result of the nature and consequences of her injuries KINDRELL M. SANDERS will, in all probability, continue to suffer in this manner for a long time into the future, if not for the balance of her natural life.
- c. suffered physical impairment. It is reasonably probable that KINDRELL M. SANDERS's physical impairment resulting from the foregoing injuries is of a lasting nature.
- d. suffered physical disfigurement. It is reasonably probable that KINDRELL M. SANDERS's physical disfigurement resulting from the foregoing injuries is of a lasting nature.
- e. Suffered loss of earning capacity in the past and future, including lost wages.
- f. Exemplary damages as allowed by the jurisdictional limits of this court.

6.2 All of the foregoing damages as alleged above are within the jurisdictional limits of this Court.

VII. RULE 193.7 NOTICE

7.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives actual notice to Defendants that any and all documents and materials produced in response to written discovery may be used as evidence in this case; and, that any such materials may be used as evidence against the party producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the document and/or materials produced in discovery.

VIII. PRAYER

8.1 **WHEREFORE, PREMISES CONSIDERED**, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final trial, Plaintiff have judgment against Defendants for all damages proved; for costs of Court; for pre-judgment interest in accordance with the law, and interest on the judgment until the time the judgment is paid; and for such other and further relief to which Plaintiff may show themselves justly entitled to receive and for which they will ever pray.

Respectfully Submitted,

LONCAR LYON JENKINS

/s/ Austin M. Carrizales

Austin M. Carrizales

State Bar No. 24077898

acarrizales@loncarassociates.com

jsgentry@loncarassociates.com

(for service and correspondence)

2012 Broadway

Lubbock, Texas 79401

806-368-9538 - Lubbock office

806-368-9539 - Lubbock office fax

Attorney for Plaintiff

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021



By: *F. Heller*
Deputy Clerk: Heller, Fayette



Clarissa Webster

ECTOR COUNTY DISTRICT CLERK

300 N. Grant Av., Rm. 301 | Odessa, Texas 79761 | 432-498-4290 | www.co.ector.tx.us/DistrictClerk

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

Ector County - 358th District Court

Ector County, Texas

11/4/2021 6:34 PM

Clarissa Webster

District Clerk

By: Karima Carrasco, Deputy

REQUEST FOR ISSUANCE OF SERVICE

CASE NUMBER: D-21-11-1258-CV COURT: _____

Name(s) of Documents to be Served: Plaintiff's Original Petition

FILE DATE: 11/4/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Dollar Tree Stores, Inc.

Address of Service: 211 E. 7th Street, Suite 620

City, State & Zip: Austin, Texas 78701

Agent (If Applicable): Corporation Service Company d/b/a CSC-Lawyers Incorporating Service

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the Proper Box)

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | <input type="checkbox"/> Capias | <input type="checkbox"/> Writ of Attachment | |
| <input type="checkbox"/> Secretary of State Citation | <input type="checkbox"/> Injunction | <input type="checkbox"/> Writ of Garnishment | |
| <input type="checkbox"/> Subpoena | | <input type="checkbox"/> Writ of Sequestration | |
| <input type="checkbox"/> Other (Please Describe): _____ | | | |

SERVICE BY: (Check One)

- ☒ E-ISSUANCE BY DISTRICT CLERK (No Copy Fees Charged for E-Issuance)
- Deliver to Email: jsgentry@loncarassociates.com (Attorney/Party Responsible for Service & Return)
- ☐ ATTORNEY PICK-UP (Phone): _____
- ☐ MAIL TO ATTORNEY AT: _____ (Postage Required)
- ☐ ECTOR COUNTY SHERIFF (Fees Required)
- ☐ CERTIFIED MAIL by District Clerk (Fees Required) to address: _____
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- ☐ OTHER, Explain: _____

Issuance of Service Requested By: Attorney/Party Name: Austin Carrizales Bar # or ID: 24077898

Mailing Address: 2012 Broadway, Lubbock, Texas 79401 Date: 11/4/2021

Phone Number: 806-368-9538 Signature: Austin Carrizales



Clarissa Webster

ECTOR COUNTY DISTRICT CLERK

300 N. Grant Av., Rm. 301 | Odessa, Texas 79761 | 432-498-4290 | www.co.ector.tx.us/District.Clerk

REQUEST FOR ISSUANCE OF SERVICE

CASE NUMBER: D-21-11-1258-CV COURT: _____

Name(s) of Documents to be Served: Plaintiff's Original Petition

FILE DATE: 11/4/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Dollar Tree, Inc.

Address of Service: 1019 Brazos Street

City, State & Zip: Austin, Texas 78701

Agent (If Applicable): Texas Secretary of State

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the Proper Box)

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | <input type="checkbox"/> Capias | <input type="checkbox"/> Writ of Attachment | |
| <input type="checkbox"/> Secretary of State Citation | <input type="checkbox"/> Injunction | <input type="checkbox"/> Writ of Garnishment | |
| <input type="checkbox"/> Subpoena | | <input type="checkbox"/> Writ of Sequestration | |
| <input type="checkbox"/> Other (Please Describe): _____ | | | |

SERVICE BY: (Check One)

- ☒ E-ISSUANCE BY DISTRICT CLERK (No Copy Fees Charged for E-Issuance)
- Deliver to Email: jsgentry@loncarassociates.com (Attorney/Party Responsible for Service & Return)
- ☐ ATTORNEY PICK-UP (Phone): _____
- ☐ MAIL TO ATTORNEY AT: _____ (Postage Required)
- ☐ ECTOR COUNTY SHERIFF (Fees Required)
- ☐ CERTIFIED MAIL by District Clerk (Fees Required) to address: _____
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- ☐ OTHER, Explain: _____

Issuance of Service Requested By: Attorney/Party Name: Austin Carrizales Bar # or ID: 24077898

Mailing Address: 2012 Broadway, Lubbock, Texas 79401 Date: 11/4/2021

Phone Number: 806-368-9538 Signature: Austin Carrizales



Clarissa Webster

ECTOR COUNTY DISTRICT CLERK

300 N. Grant Av., Rm. 301 | Odessa, Texas 79761 | 432-498-4290 | www.co.ector.tx.us/District.Clerk

REQUEST FOR ISSUANCE OF SERVICE

CASE NUMBER: D-21-11-1258-CV COURT: _____

Name(s) of Documents to be Served: Plaintiff's Original Petition

FILE DATE: 11/4/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Chalek Company, LLC

Address of Service: 505 West 15th Street

City, State & Zip: Austin, Texas 78701

Agent (If Applicable): Lawyer's Aid Service, Inc.

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

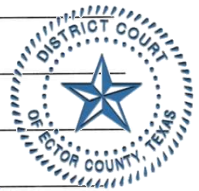
I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number:

D-21-11-1258-CV in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: F. Heller
Deputy Clerk: Heller, Fayette



TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the Proper Box)

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | <input type="checkbox"/> Capias | <input type="checkbox"/> Writ of Attachment | |
| <input type="checkbox"/> Secretary of State Citation | <input type="checkbox"/> Injunction | <input type="checkbox"/> Writ of Garnishment | |
| <input type="checkbox"/> Subpoena | | <input type="checkbox"/> Writ of Sequestration | |
| <input type="checkbox"/> Other (Please Describe): _____ | | | |

SERVICE BY: (Check One)

- ☒ E-ISSUANCE BY DISTRICT CLERK (No Copy Fees Charged for E-Issuance)
- Deliver to Email: jsgentry@loncarassociates.com (Attorney/Party Responsible for Service & Return)
- ☐ ATTORNEY PICK-UP (Phone): _____
- ☐ MAIL TO ATTORNEY AT: _____ (Postage Required)
- ☐ ECTOR COUNTY SHERIFF (Fees Required)
- ☐ CERTIFIED MAIL by District Clerk (Fees Required) to address: _____
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- ☐ OTHER, Explain: _____

Issuance of Service Requested By: Attorney/Party Name: Austin Carrizales Bar # or ID: 24077898

Mailing Address: 2012 Broadway, Lubbock, Texas 79401 Date: 11/4/2021

Phone Number: 806-368-9538 Signature: Austin Carrizales

**CLERK OF THE COURT
CLARISSA WEBSTER
DISTRICT CLERK
300 N. GRANT AVE., RM. 301
ODESSA, TEXAS 79761**

**Attorney for Plaintiff
AUSTIN M. CARRIZALES
2012 BROADWAY
LUBBOCK TX 79401**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: “You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.”

TO: DOLLAR TREE STORES, INC., DEFENDANT

GREETINGS: You are commanded to appear by filing a written answer to the Plaintiff's ORIGINAL PETITION at or before 10:00 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, before the 358th District Court of Texas, at the Courthouse in Odessa, Texas.

Said Plaintiff's Petition was filed on **November 04, 2021**, at **6:34PM o'clock**.

The file number of said suit being **D-21-11-1258-CV**.

The style of the case is:

**KINDRELL M. SANDERS VS. DOLLAR TREE STORES, INC., DOLLAR TREE, INC.,
CHALEK COMPANY, LLC**

A copy of the Plaintiff's **ORIGINAL PETITION** accompanies this citation, issued on November 05, 2021.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Odessa, Texas, on this the 5th day of November, 2021.



**CLARISSA WEBSTER, CLERK
358TH DISTRICT COURT
ECTOR COUNTY, TEXAS**

Signed: 11/5/2021 8:47:04 AM

By: _____

Karima Carrasco
Karima Carrasco, Deputy

ADDRESS FOR SERVICE:
DOLLAR TREE STORES, INC.
CORPORATION SERVICE COMPANY D/B/A
CSC-LAWYERS INCORPORATING SERV
211 E 7TH STREET SUITE 620
AUSTIN TX 78701
OR, WHEREVER HE/SHE MAY BE FOUND

OFFICER'S RETURN

Came to hand on _____, 20____, at _____ o'clock __M. and executed in _____ County, Texas by delivering to the within named _____, in person, a copy of the CITATION, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the Plaintiff's **ORIGINAL PETITION**, on the ____ day of _____, 20____, at _____ o'clock __M. at _____ (place of service).
 NOT EXECUTED FOR THE FOLLOWING REASONS: _____

SERVICE FEES: \$ _____

SHERIFF OF _____ County, Texas

Deputy/Authorized Person

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and
 (First, Middle, Last)

my address is _____.
 (Street, City, State, Zip Code)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT."

Executed in _____ County, State of _____, on the _____ day of _____, 20____.

Declarant/Authorized Process Server

(Id # & expiration of certification)

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number:

D-21-11-1258-CV in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: *F. Heller*
 Deputy Clerk: Heller, Fayette



**CLERK OF THE COURT
CLARISSA WEBSTER
DISTRICT CLERK
300 N. GRANT AVE., RM. 301
ODESSA, TEXAS 79761**

**Attorney for Plaintiff
AUSTIN M. CARRIZALES
2012 BROADWAY
LUBBOCK TX 79401**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: “You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.”

TO: DOLLAR TREE, INC., DEFENDANT BY SERVING THE TEXAS SECRETARY OF STATE

GREETINGS: You are commanded to appear by filing a written answer to the Plaintiff's ORIGINAL PETITION at or before 10:00 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, before the 358th District Court of Texas, at the Courthouse in Odessa, Texas.

Said Plaintiff's Petition was filed on **November 04, 2021**, at **ORIGINAL PETITION** o'clock.

The file number of said suit being **D-21-11-1258-CV**.

The style of the case is:

**KINDRELL M. SANDERS VS. DOLLAR TREE STORES, INC., DOLLAR TREE, INC.,
CHALEK COMPANY, LLC**

A copy of the Plaintiff's **ORIGINAL PETITION** accompanies this citation, issued on November 05, 2021.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Odessa, Texas, on this the 5th day of November, 2021.



**CLARISSA WEBSTER, CLERK
358TH DISTRICT COURT
ECTOR COUNTY, TEXAS**

Signed: 11/5/2021 8:50:02 AM

By: _____

Karima Carrasco
Karima Carrasco, Deputy

ADDRESS FOR SERVICE:
DOLLAR TREE, INC.
TEXAS SECRETARY OF STATE
1019 BRAZOS STREET
AUSTIN TX 78701
OR, WHEREVER HE/SHE MAY BE FOUND

OFFICER'S RETURN

Came to hand on _____, 20____, at _____ o'clock __M. and executed in _____ County, Texas by delivering to the within named _____, in person, a copy of the CITATION, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the Plaintiff's **ORIGINAL PETITION**, on the ____ day of _____, 20____, at _____ o'clock __M. at _____ (place of service).

NOT EXECUTED FOR THE FOLLOWING REASONS: _____

SERVICE FEES: \$ _____

 SHERIFF OF _____ County, Texas

 Deputy/Authorized Person

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and
 (First, Middle, Last)

my address is _____.
 (Street, City, State, Zip Code)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT."

Executed in _____ County, State of _____, on the _____ day of _____, 20____.

 Declarant/Authorized Process Server

 (Id # & expiration of certification)

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: *F. Heller*
 Deputy Clerk: Heller, Fayette



**CLERK OF THE COURT
CLARISSA WEBSTER
DISTRICT CLERK
300 N. GRANT AVE., RM. 301
ODESSA, TEXAS 79761**

**Attorney for Plaintiff
AUSTIN M. CARRIZALES
2012 BROADWAY
LUBBOCK TX 79401**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: “You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.”

TO: CHALEK COMPANY, LLC, DEFENDANT

GREETINGS: You are commanded to appear by filing a written answer to the Plaintiff's ORIGINAL PETITION at or before 10:00 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, before the 358th District Court of Texas, at the Courthouse in Odessa, Texas.

Said Plaintiff's Petition was filed on **November 04, 2021**, at **6:34PM o'clock**.

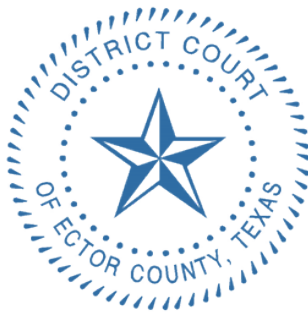
The file number of said suit being **D-21-11-1258-CV**.

The style of the case is:

**KINDRELL M. SANDERS VS. DOLLAR TREE STORES, INC., DOLLAR TREE, INC.,
CHALEK COMPANY, LLC**

A copy of the Plaintiff's **ORIGINAL PETITION** accompanies this citation, issued on November 05, 2021.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Odessa, Texas, on this the 5th day of November, 2021.



**CLARISSA WEBSTER, CLERK
358TH DISTRICT COURT
ECTOR COUNTY, TEXAS**

Signed: 11/5/2021 8:50:20 AM

By: _____

Karima Carrasco
Karima Carrasco, Deputy

ADDRESS FOR SERVICE:
CHALEK COMPANY, LLC
LAWYER'S AID SERVICE INC
505 WEST 15TH STREET
AUSTIN TX 78701
OR, WHEREVER HE/SHE MAY BE FOUND

OFFICER'S RETURN

Came to hand on _____, 20____, at _____ o'clock __.M. and executed in _____ County, Texas by delivering to the within named _____, in person, a copy of the CITATION, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the Plaintiff's **ORIGINAL PETITION**, on the ____ day of _____, 20____, at _____ o'clock __.M. at _____ (place of service).

NOT EXECUTED FOR THE FOLLOWING REASONS: _____

SERVICE FEES: \$ _____

 SHERIFF OF _____ County, Texas

 Deputy/Authorized Person

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and
 (First, Middle, Last)

my address is _____.
 (Street, City, State, Zip Code)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT."

Executed in _____ County, State of _____, on the _____ day of _____, 20____.

 Declarant/Authorized Process Server

 (Id # & expiration of certification)

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021



By: *F. Heller*
 Deputy Clerk: Heller, Fayette

AFFIDAVIT OF SERVICE

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

Ector County - 358th District Court

Ector County, Texas

358th Judicial District Court
Clarissa Webster

District Clerk

By: Amber Rey, Deputy

State of Texas

County of Ector

Case Number: D-21-11-1258-CV

Plaintiff:

Kindrell M. Sanders

vs.

Defendant:

Dollar Tree Stores, Inc., Dollar Tree, Inc., and Chalek Company, LLC,

For:

Loncar & Associates

424 S. Cesar Chavez Blvd.

Dallas, TX 75201

Received by WesTex Legal on the 8th day of November, 2021 at 9:14 am to be served on **Chalek Company, LLC** by serving it's registered agent **Lawyer's Aid Service, Inc., 505 W 15th St, Austin, Travis County, TX 78701.**

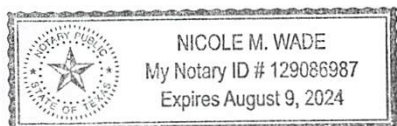
I, Dane Ray Cuppett, being duly sworn, depose and say that on the **8th day of November, 2021** at **3:35 pm, I:**

executed to the **REGISTERED AGENT** by delivering a true copy of the **Citation and Plaintiff's Original Petition** with the date of delivery endorsed thereon by me, to **Sharon Leal, Lawyer's Aid Service, Inc.** as the designated agent to accept delivery of process at the address of **505 W 15th St, Austin, Travis County, TX 78701** on behalf of **Chalek Company, LLC** and informed said person of the contents therein.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 8th
day of November, 2021 by the affiant
who is personally known to me.

NOTARY PUBLIC



Dane Ray Cuppett
PSC-7114, Exp. 10/31/23

11/08/2021
Date

WesTex Legal
4414 82nd Street
Ste. 212-322
Lubbock, TX 79424
(806) 401-1749

Our Job Serial Number: ATX-2021011886
Ref: 6322094

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 58998391

Status as of 11/9/2021 2:30 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Josh Gentry		jsgentry@brianloncar.com	11/9/2021 1:48:25 PM	SENT
Joshua Gentry		jsgentry@loncarassociates.com	11/9/2021 1:48:25 PM	SENT
Austin M.Carrizales		acarrizales@loncarassociates.com	11/9/2021 1:48:25 PM	SENT

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: _____



Deputy Clerk: Heller, Fayette



TRUE & CORRECT COPY OF A DOCUMENT ON FILE AT ECTOR COUNTY, TEXAS

CLARISSA WEBSTER, DISTRICT CLERK

PAGE 2 of 2

AFFIDAVIT OF SERVICE

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

**Ector County - 358th District Court
Ector County, Texas**

**358th Judicial District Court
Clarissa Webster
District Clerk**

By: Amber Rey, Deputy

State of Texas

County of Ector

Case Number: D-21-11-1258-CV

Plaintiff:

Kindrell M. Sanders

vs.

Defendant:

Dollar Tree Stores, Inc., Dollar Tree, Inc., and Chalek Company, LLC,

For:

Loncar & Associates

424 S. Cesar Chavez Blvd.

Dallas, TX 75201

Received by WesTex Legal on the 8th day of November, 2021 at 9:14 am to be served on **Dollar Tree, Inc. by serving through the Texas Secretary of State, 1019 Brazos St, Austin, Travis County, TX 78701.**

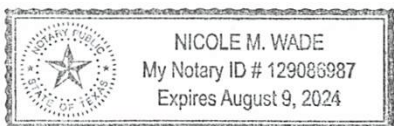
I, Dane Ray Cuppett, being duly sworn, depose and say that on the **8th day of November, 2021 at 3:17 pm, I:**

executed to the **SECRETARY OF STATE** by delivering in duplicate a true copy of the **Citation and Plaintiff's Original Petition** with the date of delivery endorsed thereon by me, to: **Venita Moss at 1019 Brazos St, Austin, Travis County, TX 78701**, as the designated agent for the Texas Secretary of State to accept delivery of process on behalf of **Dollar Tree, Inc.** An administrative fee of \$55.00 was also tendered.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 8th
day of November, 2021 by the affiant
who is personally known to me.

NOTARY PUBLIC



Dane Ray Cuppett
PSC-7114, Exp. 10/31/23

11/08/2021
Date

**WesTex Legal
4414 82nd Street
Ste. 212-322
Lubbock, TX 79424
(806) 401-1749**

Our Job Serial Number: ATX-2021011888
Ref: 6322095

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 58998391

Status as of 11/9/2021 2:30 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Josh Gentry		jsgentry@brianloncar.com	11/9/2021 1:48:25 PM	SENT
Joshua Gentry		jsgentry@loncarassociates.com	11/9/2021 1:48:25 PM	SENT
Austin M.Carrizales		acarrizales@loncarassociates.com	11/9/2021 1:48:25 PM	SENT

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: _____



Deputy Clerk: Heller, Fayette



TRUE & CORRECT COPY OF A DOCUMENT ON FILE AT ECTOR COUNTY, TEXAS

CLARISSA WEBSTER, DISTRICT CLERK

PAGE 2 of 2

AFFIDAVIT OF SERVICE

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

**Ector County - 358th District Court
Ector County, Texas**

**358th Judicial District Court
Clarissa Webster**

District Clerk

By: Amber Rey, Deputy

State of Texas

County of Ector

Case Number: D-21-11-1258-CV

Plaintiff:

Kindrell M. Sanders

vs.

Defendant:

Dollar Tree Stores, Inc., Dollar Tree, Inc., and Chalek Company, LLC,

For:

Loncar & Associates

424 S. Cesar Chavez Blvd.

Dallas, TX 75201

Received by WesTex Legal on the 8th day of November, 2021 at 9:14 am to be served on **Dollar Tree Stores, Inc. by serving its registered agent Corporation Service Company, 211 E 7th Street, Suite 620, Austin, Travis County, TX 78701.**

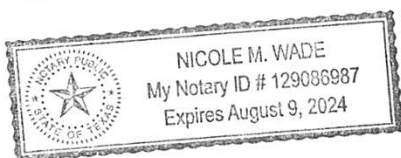
I, Dane Ray Cuppett, being duly sworn, depose and say that on the **8th day of November, 2021 at 2:44 pm, I:**

executed to the **REGISTERED AGENT** by delivering a true copy of the **Citation and Plaintiff's Original Petition** with the date of delivery endorsed thereon by me, to **Evie Lichtenwalter, Corporation Service Company** as the designated agent to accept delivery of process at the address of **211 E 7th Street, Suite 620, Austin, Travis County, TX 78701** on behalf of **Dollar Tree Stores, Inc.** and informed said person of the contents therein.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 8th
day of November, 2021 by the affiant
who is personally known to me.

NOTARY PUBLIC



Dane Ray Cuppett
PSC-7114, Exp. 10/31/23

Date

11/08/2021
**WesTex Legal
4414 82nd Street
Ste. 212-322
Lubbock, TX 79424
(806) 401-1749**

Our Job Serial Number: ATX-2021011889
Ref: 6322096



FILED FOR RECORD

Cause No.: D-21-11-1258-CV

Ector County - 358th District Court

Ector County, Texas

11/24/2021 9:19 AM

Clarissa Webster

District Clerk

By: DiAnn Espinoza, Deputy

DIRECT: 214.379.6908

E-MAIL: RGANT@MAYERLLP.COM

November 24, 2021

Austin M. Carrizales
LONCAR LYON JENKINS
2012 Broadway
Lubbock, Texas 79401

Re: Kindrell M. Sanders v. Dollar Tree Stores, Inc., Dollar tree, Inc. and Chalek Company, LLC

Cause No.: D-21-11-1258-CV

Court: 358th District Court, Ector County, Texas

Our File No.: 79656.00081

Dear Mr. Carrizales:

Enclosed is ***Defendant Dollar Tree Stores, Inc.'s Original Answer to Plaintiff's Original Petition and Demand for a Jury Trial*** in the above-referenced matter, which was e-filed today in the 358th District Court, Ector County, Texas.

Please be advised that we would like to take your client's deposition, on a mutually agreeable date and time, following our receipt of Plaintiff's Answers to Defendant's (forthcoming) written discovery requests.

Should you have any questions, please do not hesitate to contact Angela Avent, the handling attorney on this file at 214.379.6934, aavent@mayerllp.com or me at 214.379.6908 or via email at rgant@mayerllp.com.

Sincerely,

MAYER LLP

By: s/ Robin R. Gant

Robin R. Gant

RRG/pm
Attachment

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Patty Mikula on behalf of Robin Gant
 Bar No. 24069754
 pmikula@mayerllp.com
 Envelope ID: 59455121
 Status as of 11/24/2021 9:36 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Josh Gentry		jsgentry@brianloncar.com	11/24/2021 9:19:49 AM	SENT
Joshua Gentry		jsgentry@loncarassociates.com	11/24/2021 9:19:49 AM	SENT
Austin M. Carrizales		acarrizales@loncarassociates.com	11/24/2021 9:19:49 AM	SENT
Kristy Fisher		kfisher@mayerllp.com	11/24/2021 9:19:49 AM	SENT

Associated Case Party: Dollar Tree Stores, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Angela Avent		aavent@mayerllp.com	11/24/2021 9:19:49 AM	SENT
Robin Gant		rgant@mayerllp.com	11/24/2021 9:19:49 AM	SENT
Zach Mayer		zmayer@mayerllp.com	11/24/2021 9:19:49 AM	SENT

CERTIFIED COPY CERTIFICATE

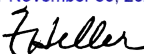
State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: D-21-11-1258-CV in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: _____



Deputy Clerk: Heller, Fayette



TRUE & CORRECT COPY OF A DOCUMENT ON FILE AT ECTOR COUNTY, TEXAS

CLARISSA WEBSTER, DISTRICT CLERK

PAGE 2 of 2

FILED FOR RECORD

Cause No.: D-21-11-1258-CV

Ector County - 358th District Court

Ector County, Texas

11/24/2021 2:49 PM

Clarissa Webster
District Clerk

By: Amber Rey, Deputy

CAUSE NO. D-21-11-1258-CV

KINDRELL M. SANDERS,
Plaintiff,

v.

DOLLAR TREE STORES, INC.,
DOLLAR TREE, INC., AND
CHALEK COMPANY, LLC,
Defendants.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

358TH JUDICIAL DISTRICT

ECTOR COUNTY, TEXAS

DEFENDANT CHALEK COMPANY, LLC'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, CHALEK COMPANY, LLC files this, its Original Answer to Plaintiff's Original Petition and, in support, would show the Court, as follows:

I.

General Denial

Pursuant to Texas Rules of Civil Procedure 92, Defendant generally denies, all and singular, each and every, material allegation contained within Plaintiff's 2nd Amended Original Petition and any future supplemental and/or amended Petition that may hereinafter be filed, and demands strict proof thereof, as required by the Constitution and the Laws of the State of Texas.

II.

Affirmative Defenses

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that it exercised no control over the subject area on the premises where Plaintiff was allegedly injured and, thus, was not negligent.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that the negligence of the Plaintiff and/or other parties were the sole proximate and/or a contributory cause of the occurrence in question. Accordingly, Defendant is entitled to the submission of the issue of Plaintiff's, other parties' and/or responsible third-parties' proportionate and/or comparative negligence to the finder of the fact, pursuant to Texas

DEFENDANT CHALEK COMPANY, LLC'S ORIGINAL ANSWER – Page 1 of 4

TRUE & CORRECT COPY OF A DOCUMENT ON FILE AT ECTOR COUNTY, TEXAS

CLARISSA WEBSTER, DISTRICT CLERK

PAGE 1 of 5

Civil Practice and Remedies Code Chapters 32 and 33. Further, Defendant seeks contribution and indemnity from joint tortfeasors and/or a set-off or credit for all settlements between Plaintiff and any other persons or entities in connection with the event, injuries and damages arising from this lawsuit.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that Plaintiff failed to mitigate her damages. Accordingly, Defendant is entitled to a jury instruction that it is not to consider elements of damages incurred and/or caused by her Plaintiff's failure to mitigate her damages.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that Plaintiff's injuries and damages, if any, resulted from an "open and obvious" condition.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that Plaintiff's claimed damages were wholly caused by a new and independent cause or causes not reasonably foreseen by Defendant, or by intervening acts of others which were the sole proximate cause or, alternatively, a proximate cause to any of Plaintiff's alleged damages and, therefore, such new and independent acts or causes became the immediate and efficient cause or causes of damages, such that all the negligent acts or omissions of which she complains as to Defendant did not cause any of her alleged damages or injuries.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant contends that Plaintiff's past medical damages, if any, are limited to only those amounts that have been "paid and incurred", pursuant to Texas Civil Practice and Remedies Code §41.0105.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant would show that Plaintiff's claimed injuries and damages are the result of pre-existing conditions unrelated to the subject incident.

Pleading further, should same be necessary and without waiving the foregoing objections, Defendant further contends that Plaintiff's claims for pre-judgment interest are limited by the dates and amounts, as set forth in one or more of the following statutes, and as applicable to this case, if at all:

- A. Chapter 41, Texas Civil Practice and Remedies Code; and
- B. The Texas Finance Code.

Pleading further, should the same be necessary and without waiving the foregoing, Defendant claims the protections of section 18.091 of the Texas Civil Practices & Remedies Code. Specifically, Defendant maintains that Plaintiff, if seeking recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value and/or loss of inheritance, must present evidence in the form of a net loss after reduction for income tax payments or unpaid tax liability pursuant to any federal income tax law.

Defendant finally pleads, should the same be necessary and without waiving the foregoing, that Plaintiff's claim for exemplary damages is unconstitutional and/or alternatively, that any such award for same, if allowed, is limited by the statutory provisions as contained within Chapter 41 of the Texas Civil Practice & Remedies Code.

III. **Notice of Intent**

Defendant hereby gives notice of its intent to utilize items produced in discovery in the trial of this matter and that the authenticity of such items is self-proven pursuant to Texas Rules of Civil Procedure, Rule 193.7.

IV. **Jury Request**

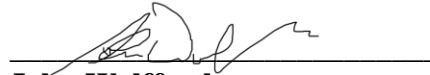
Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing from it by her claims, that Defendant recovers its costs of suit, and for such other and further

relief to which Defendant may show itself justly entitled, both special and general, at law or in equity.

Respectfully submitted,

LAW OFFICE OF JAMES A. LAWRENCE



John Wolffarth

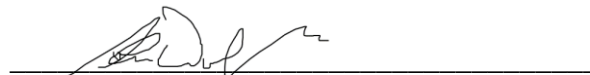
State Bar No. 24051543
105 Decker Court, Suite 150
Irving, Texas 75062-2211
(972) 536-7302 (Telephone)
(855) 717-5349 (Facsimile)
paciod1@nationwide.com

**Attorneys for Defendant
CHALEK COMPANY, LLC**

CERTIFICATE OF SERVICE

In keeping with Rule 21a of the Texas Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing instrument has been served on November 24, 2021 on the following:

Austin M. Carrizales
Loncar Lyon Jenkins
2012 Broadway
Lubbock, Texas 79401
806-368-9538
acarrizales@loncarassociates.com
jsgentry@loncarassociates.com
Attorneys for Plaintiff



John Wolffarth

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Joan Parma on behalf of John Wolffarth
 Bar No. 24051543
 parmaj2@nationwide.com
 Envelope ID: 59473083
 Status as of 11/29/2021 8:13 AM CST

Associated Case Party: Dollar Tree Stores, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Zach Mayer		zmayer@mayerllp.com	11/24/2021 2:49:32 PM	SENT
Robin Gant		rgant@mayerllp.com	11/24/2021 2:49:32 PM	SENT
Angela Avent		aavent@mayerllp.com	11/24/2021 2:49:32 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Josh Gentry		jsgentry@brianloncar.com	11/24/2021 2:49:32 PM	SENT
Kristy Fisher		kfisher@mayerllp.com	11/24/2021 2:49:32 PM	SENT
Joshua Gentry		jsgentry@loncarassociates.com	11/24/2021 2:49:32 PM	SENT
Austin M. Carrizales		acarrizales@loncarassociates.com	11/24/2021 2:49:32 PM	SENT

Associated Case Party: Chalek Company, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Joan Parma		parmaj2@nationwide.com	11/24/2021 2:49:32 PM	SENT
John Wolffarth		wolffj4@nationwide.com	11/24/2021 2:49:32 PM	SENT

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector
 I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.
Clarissa Webster, District Clerk
 Attest on Date: November 30, 2021

By: 
 Deputy Clerk: Heller, Fayette



FILED FOR RECORD
Cause No.: D-21-11-1258-CV
Ector County - 358th District Court
Ector County, Texas
11/24/2021 9:19 AM
Clarissa Webster
District Clerk
By: DiAnn Espinoza, Deputy

CAUSE NO. D-21-11-1258-CV

KINDRELL M. SANDERS,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	ECTOR COUNTY, TEXAS
	§	
DOLLAR TREE STORES, INC.,	§	
DOLLAR TREE, INC., and	§	
CHALEK COMPANY, LLC,	§	
<i>Defendants.</i>	§	358 th JUDICIAL DISTRICT

**DEFENDANT DOLLAR TREE STORES, INC.'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION
AND DEMAND FOR JURY TRIAL**

DOLLAR TREE STORES, INC., one of the Defendants (hereinafter "Defendant"), hereby files its Original Answer to Plaintiff's Original Petition and Demand for Jury Trial as follows:

**I.
GENERAL DENIAL**

1. Defendant denies each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

**II.
JURY DEMAND**

2. In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant demands a trial by jury and hereby tenders the applicable jury fee.

**III.
PRAYER FOR RELIEF**

3. Defendant prays that Plaintiff take nothing by this lawsuit, that Defendant go hence with its costs without delay, and for such other and further relief,

both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

MAYER LLP

750 North St. Paul Street, Suite 700
Dallas, Texas 75201
214.379.6900 / F: 214.379.6939

By: s/ Robin R. Gant

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**ATTORNEYS FOR DEFENDANT
DOLLAR TREE STORES, INC.**

CERTIFICATE OF SERVICE

This is to certify that on the 24th day of November 2021, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

Austin M. Carrizales
LONCAR LYON JENKINS
2012 Broadway
Lubbock, Texas 79401

Counsel for Plaintiff

- ☐ E-MAIL
- ☐ HAND DELIVERY
- ☐ FACSIMILE
- ☐ OVERNIGHT MAIL
- ☐ REGULAR, FIRST CLASS MAIL
- ☒ E-FILE AND SERVE
- ☐ E-SERVICE ONLY
- ☐ CERTIFIED MAIL/RETURN RECEIPT REQUESTED

s/ Robin R. Gant

Robin R. Gant

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Patty Mikula on behalf of Robin Gant
 Bar No. 24069754
 pmikula@mayerllp.com
 Envelope ID: 59455121
 Status as of 11/24/2021 9:36 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Joshua Gentry		jsgentry@loncarassociates.com	11/24/2021 9:19:49 AM	SENT
Austin M.Carrizales		acarrizales@loncarassociates.com	11/24/2021 9:19:49 AM	SENT
Josh Gentry		jsgentry@brianloncar.com	11/24/2021 9:19:49 AM	SENT
Kristy Fisher		kfisher@mayerllp.com	11/24/2021 9:19:49 AM	SENT

Associated Case Party: Dollar Tree Stores, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Angela Avent		aavent@mayerllp.com	11/24/2021 9:19:49 AM	SENT
Robin Gant		rgant@mayerllp.com	11/24/2021 9:19:49 AM	SENT
Zach Mayer		zmayer@mayerllp.com	11/24/2021 9:19:49 AM	SENT

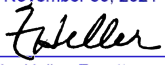
CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: D-21-11-1258-CV in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: 
 Deputy Clerk: Heller, Fayette



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Case Contacts

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Josh Gentry		jsgentry@brianloncar.com	11/9/2021 1:48:25 PM	SENT
Joshua Gentry		jsgentry@loncarassociates.com	11/9/2021 1:48:25 PM	SENT
Austin M.Carrizales		acarrizales@loncarassociates.com	11/9/2021 1:48:25 PM	SENT

CERTIFIED COPY CERTIFICATE

State of Texas, County of Ector

I hereby certify that this document is a true and correct copy of the original record on file in the Ector County District Clerk's office in cause number: **D-21-11-1258-CV** in the 358th District Court.

Clarissa Webster, District Clerk

Attest on Date: November 30, 2021

By: _____



Deputy Clerk: Heller, Fayette



TRUE & CORRECT COPY OF A DOCUMENT ON FILE AT ECTOR COUNTY, TEXAS

CLARISSA WEBSTER, DISTRICT CLERK

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